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8 NOT FOR CITATION

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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12 DAVID GRECU,) No. C 07-00780 JF (PR)
13 Petitioner,)
14 vs.) ORDER GRANTING MOTION FOR
15 M. S. EVANS, Warden,) EXTENSION OF TIME TO FILE
16 Respondent.) APPLICATION FOR CERTIFICATE OF
17) APPEALABILITY
18 _____) (Docket No. 26)

19 On August 27, 2008, the Court granted Respondent's motion to dismiss the
20 petition as untimely. On September 12, 2008, Petitioner filed a motion for an extension
21 of time to file a motion for a certificate of appealability (Docket No. 26). In his motion,
22 petitioner explains that he is waiting to receive copies of court documents from the
23 superior court to present as exhibits in his appeal to prove that the petition was timely
24 filed. (Pickens Decl. in Supp. of Mot. at 1.) Petitioner requests an enlargement of time
25 up to and including September 15, 2008, to file his notice of appeal and motion for a
certificate for appealability

26 Federal Rule of Appellate Procedure 4(a)(5) allows a motion for an extension of
27 time if the party requests it within thirty days of the expiration of the time to file the
28 notice and shows excusable neglect or good cause. See Fed. R. App. P. 4(a)(5). The

1 extension must be no later than thirty days after the original deadline, or ten days after the
2 entry of the order granting the motion, whichever is later. See id. The Court concludes
3 that Petitioner has shown good cause for such extension. Accordingly, Petitioner's
4 motion for an extension of time to file an application for a certificate of appealability
5 (docket no. 26) is GRANTED.

6 Petitioner shall file an application for a certificate of appealability no later than
7 thirty days after the original deadline, *i.e.*, **no later than September 26, 2008.** Id.

8 IT IS SO ORDERED.

9 DATED: 9/18/08



JEREMY FOGEL
United States District Judge

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